

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Darwin Webb,
Petitioner-Appellant,

v.

City of Cedar Rapids Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-101-1133
Parcel No. 14192-30005-00000

On March 20, 2012, the above-captioned appeal came on for a telephone hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Darwin Webb did not participate in the hearing, but submitted evidence in support of his petition. He was self-represented. City Attorney James H. Flitz is counsel for the Board of Review. City of Cedar Rapids Deputy Assessor Tom Lee represented it at hearing. The Board of Review submitted evidence in support of its decision. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Webb, owner of property located at 1625 Elaine Drive NW, Cedar Rapids, Iowa, appeals from the City of Cedar Rapids Board of Review decision reassessing his property. According to the property record card, the subject property consists of a one-story, frame dwelling having 1040 square feet of above-grade living area built in 1975; a full basement with 375 square feet of recreation room finish; a 143 square-foot, wood deck; and two 16 square-foot, concrete porches/stoops. The dwelling has average quality grade (4+5) and is in normal condition. It also has a 576 square-foot, detached garage. The property has 19% physical depreciation. The improvements are situated on a 0.205 acre site in the Northwest quadrant of Cedar Rapids.

The real estate was classified as residential on the January 1, 2011, assessment and valued at \$126,012, representing the \$26,397 land value and \$99,615 in dwelling value.

Webb protested to the Board of Review on the ground that there has been a change in value since the last reassessment under Iowa Code sections 441.37(1) and 441.35. He claimed \$108,000 was the actual value and a fair assessment of the property as of January 1, 2011. The Board of Review denied the protest.

Webb then appealed to this Board with the same claim. This Board notes, in a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we only consider the ground that the property is over-assessed; not whether there has been a change in value.

Webb offered an appraisal completed by Jeff Haderthauer¹ of Koestener, McGivern & Associates in Davenport, Iowa. Haderthauer identified five sales and one listing of comparable properties. Four of the sales were ranches and one was a raised ranch all located within the subject property's defined neighborhood. He noted that neither the subject nor the subject's neighborhood was affected by the flooding of 2008. The comparables were 41 to 50 years old and roughly within one mile of the subject property. The sale prices ranged from \$109,000 to \$122,500, or \$100.41 to \$119.31 per square foot with a median of \$105.321. He adjusted the sales for financing, gross living area, basement size and finish, condition, garage stalls, and amenities. Adjusted sales prices ranged from \$96,500 to \$114,000, or \$82.62 to \$113.10 with a median of \$104.44. Haderthauer's opinion of value for the subject property was \$108,000, or \$103.85 per square foot as of December 28, 2010, using this sales approach to valuation.

¹ The appraisal was also signed by a supervisory appraiser, Jeremy Keller.

The following chart summarizes the appraisal information.

Parcel	Year Built	TSFLA	Garage	Base Finish	Sale Date	Sales Price	\$SPSF	Adjusted Value	Adjust PSF
1001 18th St NW	1967	1008	440-Det	Moderate ²	12/02/2010	\$114,000	\$113.10	\$114,000	\$113.10
1736 Hillside Dr NW	1967	1220	504-Att	516	10/14/2010	\$122,500	\$100.41	\$109,700	\$ 89.92
1600 24th St NW	1962	1168	844-Det	639	08/03/2010	\$110,000	\$94.17	\$96,500	\$ 82.62
1816 Garry Ave NW	1969	989	1 Stall Base ³	276	04/13/2010	\$118,000	\$119.31	\$111,000	\$ 112.23
1225 18th St NW	1960	1036	None	355	02/11/2010	\$109,000	\$105.21	\$108,200	\$ 104.44
2900 Iris Ave NW ⁴	1974	1040	672-Det	325	05/20/2011	\$113,000 ⁵	\$108.65	113,895	\$ 109.51
Subject	1974	1040	576-Det	375					

The Board of Review offered five market comparables. The comparables unadjusted sale prices ranged from \$122.18 to \$136.06 per square foot, with a median of \$125.89 per square foot. The Board of Review adjusted the sale prices for total living area, basement finish, porches, decks/patios, depreciation, and garage feature. The adjustments were based upon costs and were not market adjustments. The adjusted sale prices range from \$116.91 to \$131.15 per square foot with a median of \$124.90 per square foot. The assessed value of the subject, \$121.17 per square foot, is within both the adjusted and unadjusted sale price ranges.

Parcel	Year Built	TSFLA	Garage	SF Base Fin	Sale Date	Sales Price	\$SPSF
1609 27th St NW	1968	1064	576-Det	500	04/21/2010	\$130,000	\$122.18
1625 30th St Ct NW	1977	1040	576-Det	600	11/24/2010	\$138,000	\$132.69
1443 26th St NW	1978	1008	440-Det	450	09/28/2009	\$126,900	\$125.89
1604 27th St NW	1968	1040	396-Det	None	01/26/2009	\$130,000	\$125.00
2904 Iris Ave NW	1974	1040	484-Det	500	09/30/2009	\$141,500	\$136.06
Subject	1974	1040	576-Det	375			

Deputy Assessor Tom Lee testified on behalf of the Board of Review. In his opinion, Webb's appraisal for a loan modification would not accurately reflect the subject property's market value. Lee

² The property record chart to 1001 18th St NW indicates no basement finish.

³ The appraisal identifies the basement as attached, while the property record card indicates a one-stall, basement garage.

⁴ This is the active listing.

⁵ The appraisal indicates a list price for the property, while the property record card is updated with the recent sale information.

believes loan appraisals are more conservative than tax appraisals. We note, however, that despite being done for loan modification, Haderthauer appraised the property in fee simple and the assignment indicates the purpose was to "determine market value."

The Board of Review's evidence also commented regarding the location of the comparables in Haderthauer's appraisal. The Board of Review contends the properties are not, in fact, in the subject property's neighborhood, even though they are also in the northwest quadrant of Cedar Rapids. We find the properties are within reasonable distance from the subject property (all located less than 1.12 miles) and have received adequate adjustments to make them comparable.

Webb also testified paired sales analyses in the city, area, and neighborhood show stable market conditions. He indicated that the adjustments made to the Board of Review comparable sales were not market driven adjustments but were based on costs. Lee indicated the costs figures used for adjustments were replacement costs new, not depreciated replacement costs. Also, it is unclear whether adjustments were needed, for example to account for the detached garages.

Reviewing the entire record, we find the preponderance of the evidence supports Webb's claim of over-assessment. While the comparable sales offered by the Board of Review appear to be reasonably comparable properties in the area and tend to support the assessment, the adjustments are based on replacement costs new, not depreciated to accurately adjust for the thirty-seven-year-old subject property, and are not market driven adjustments. Additionally, three of the Board of Review sales occurred in 2009, whereas the Haderthauer appraisal considered more recent sales. The Haderthauer appraisal also made market adjustments. Therefore, we find the appraisal the most credible evidence of the subject property's fair market value as of January 1, 2011.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Webb submitted an appraisal of the subject property with an effective date of December, 28, 2010, which was just days prior to the January 1, 2011, assessment date. The stated assignment was to determine the market value of the property in fee simple. The appraisal chose properties that

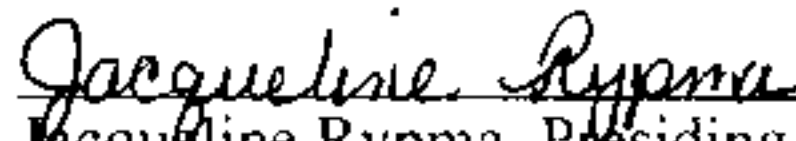
were a reasonable distance from the subject property and made market based adjustments to compensate for differences between the sales and the subject property. Webb's evidence supports his claim that the property is assessed for more than authorized by law.

Viewing the record as a whole, we determine that the preponderance of the evidence supports Webb's claim of over-assessment as of January 1, 2011. Therefore, we modify the property assessment as determined by the Board of Review. The Appeal Board determines the assessed value of Webb's property located at 1625 Elaine Drive NW, Cedar Rapids, is \$108,000, representing \$26,397 in land value and \$81,603 in dwelling value, as of January 1, 2011.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the City of Cedar Rapids Board of Review is modified as set forth herein.

The Secretary of the State of Iowa Property Assessment appeal Board shall mail a copy of this Order to the Linn County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 4 day of May 2012.


Jacqueline Rypma, Presiding Officer

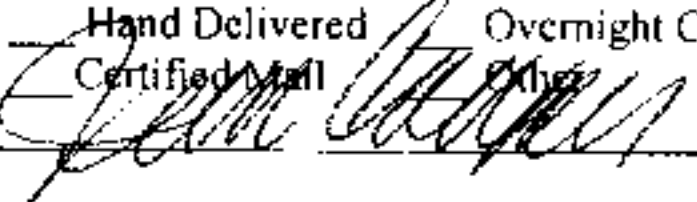

Richard Stradley, Board Chair


Karen Oberman, Board Member

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AUDITOR

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>5-4</u> , 201 <u>2</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
Signature	<u></u>